

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

COMMENTS OF CITY OF DALY CITY

These Comments are filed by the City of Daly City, California in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, Daly City believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in Our Community

Community Information

Daly City is a city with a population of over 105,000. Our franchised cable provider(s) are Comcast and RCN. Our community has negotiated cable franchises since 1968.

Competitive Cable Systems

Our community:

- Granted a competitive franchise to RCN, a cable overbuilder, in 1999 and that provider is providing service in our community today. Both Comcast and RCN are subject to identical terms and conditions in the City's Cable Ordinance and their respective Franchise Agreements.
- Had previously granted competitive franchises to other, smaller providers, limited to specific areas they requested to serve (these providers have since been bought by Comcast).
- Has not denied any provider the opportunity to serve in our community.
- Does have mechanisms in place to offer the same or a comparable franchise to a competitor upon request.

The competitive franchise granted to RCN in 1999 was executed shortly after the City had renewed our franchise with Comcast. We offered RCN the same terms and conditions to provide them with the "level playing field" for entry into our community that they were seeking. The franchise application and negotiation process was started in Fall 1998 and was completed by early Spring 1999. Negotiations were conducted at City Hall between City staff and RCN representatives and meetings were scheduled as frequently as the applicant was able to meet. By using Email and document attachments, we were able to streamline the process. The only difference in the respective negotiation processes was that RCN had to construct all new infrastructure whereas Comcast, although they were rebuilding a lot of plant as part of the new

agreement, had use of existing conduits, vaults and the like. The City encouraged the competition and RCN agreed to serve the entire community. They were given a four year window in which to accomplish this build-out but they have been unable to expand beyond a partial service area due to their own financial issues.

Conclusions

The local cable franchising process functions well in Daly City. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Daly City therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

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